IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION
WRIT PETITION NO.3154 OF 2007

Mukhtar Rajjak Khatik .. Petitioner
v/s.
The State of Maharashtra and others .. Respondents

Mr. Harshad Bhadbhade for the petitioner.
Mr. V.P. Malwankar, Assistant Government Pleader for the respondent Nos.1,4 and 5.
Mr. S.B. Shetye for the respondent No.2.

CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.
DATED : 24TH APRIL, 2007

P.C.

Rule. Heard forthwith.

2. The case of the petitioner has been rejected solely on the ground that in the school records, the petitioner's caste has not been shown. In writ petition No.2121 of 2007 decided on April 9, 2007, we have taken note of the Government G.R. Dated 22.7.1996 which will be relevant for the purpose of consideration of caste claim belonging to Muslim/Musalman. The Vigilance Report had also not been called. Considering the G.R. and the judgment of the Supreme Court in State of Maharashtra v. Ravi Prakash Parmar, 2007(2) Mh.L.J. 250, the impugned order is set aside. The matter is remanded back to the Tribunal to decide the matter afresh in terms of the G.R. and the applicable law. If the petitioner seeks liberty to lead evidence, an opportunity be given including to produce documentary evidence. The entire exercise to be completed within three months from today.

3. On behalf of the Election Commission, the learned counsel states that from tomorrow the process of filing nomination papers is to be started.

4. Considering that the nomination have yet to be filed, the respondents are directed not to proceed with holding of bye-election in respect of the ward from which the petitioner was elected and now disqualified till the disposal of the petitioner's caste claim by the Committee.

Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO, J.)

(R.M. SAVANT, J.)